# THE COMMONWEALTH OF MASSACHUSETTS

Town of Wareham

WAREHAM TOWN CLERK 2024 JAN 24 PM4: 16

### BOARD OF APPEALS

Petition No.:

47-23

Book:46613

Page: 0342

Date: 01/11/2024

### Certificate of Granting of Special Permit/ Variance (General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Wareham hereby certifies that a Special Permit has been granted:
To: Michael J Umano, Trustee, ITW Realty Trust
Address: 40 Lone Street
City or Town:Marshfield, MA 02050
Affecting the rights of the owner with respect to land or buildings at Assessor's Map 3, Lot 195A, 196A, 197A, 198A
The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to grant a variance and that copies of said decision, and of all plans referred to in the decision, have been filed with the ZBA, Conservation Commission, and the Town Clerk.
The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of the registered decision shall be returned to the Board of Appeals as proof of filing.
Any person aggrieved by this decision may appeal to the Superior Court of Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT within twenty (20) days of the date of filing of this decision.
Clerk

# TOWN OF WAREHAM

# Board of Appeals CLERK'S RECORD OF NOTIFICATION

WAREHAM TOWN CLERK 2024 Jan 24 PM4:16

No. <u>47-23</u>

Petition of: New Cingular Wireless PCS, LLC d/b/a AT&T	
Location of Property: 25 Brown Street	
Date of Notification of Hearing: November 9, 2023 and	November 16, 2023
Date of Hearing: December 13, 2023, December 27, 20	23 and January 10, 2024
Date of Notification of Decision: January 11, 2023	
DECISION: See attached	
REASON:	
Name and Address of Abutting Owners: Certified Abutters	List Attached
June D. Co	ein In

Board of Appeals

### NOTICE OF DECISION OF THE WAREHAM ZONING BOARD OF APPEALS

Petition: 47-23

Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T Owner: Michael J. Umano, Trustee, ITW Realty Trust Owner Address: 40 Lone Street, Marshfield, MA 02050

Subject Property Address: 25 Brown Street Subject Property Parcel ID: Map 56, Lot 1000A

Date of Public Hearing: December 13, 2023, December 27, 2023 & January 10, 2024

Date of Notice: January 11, 2024

### Findings:

The Petitioner was before the Zoning Board of Appeals on December 13, 2023, pursuant to a Denial Letter dated June 21, 2023, issued by the Building Commissioner who determined that the Petitioner's plan to extend the existing cell tower from 150' to 160', with overall height of 163' in the MR-30 district located at 25 Brown St requires a Special Permit. Accordingly, the Petitioner brought the petition to the Board of Appeals which granted the Special Permit on January 10, 2024, as a continued hearing.

The Board considered the protections afforded to telecommunications under State and federal law and the limits of the Board's action on this application, and with the agreement of counsel for the applicant, voted to issue a Special Permit. The Board also considered the impact on the neighborhood should the construction occur or should the antenna fall and found that vegetative buffer plantings would provide a reasonable visual buffer to reduce impact to the neighborhood and that the fall zone was sufficiently devoid of potential harm so the additional height was acceptable.

Based upon the above, the Board granted the Special Permit subject to the following conditions:

### **Conditions:**

- 1. Any relief not expressly granted hereunder is hereby denied.
- 2. Plantings of evergreens, 6' tall and 5' apart are to be installed around the equipment to act as grade-level visual relief.
- 3. For this decision to become effective, a copy of said decision and notice thereof must be filed at the Plymouth County Registry of Deeds and must bear the certification of the Town Clerk that twenty (20) days have elapsed and no appeals have been filed, or that if such appeal has been filed, that it has been dismissed or denied. A certified copy of said recording must be thereafter filed with the Board of Appeals.
- 4. If substantial use or construction permitted by these Variances has not commenced within one year from the date of which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for an appeal period to expire and the amount of time required to pursue and await

the determination of any such appeal, then these variances shall expire in so far as the foregoing statement is modified by Chapter 195 of the Acts of 1984. Any person exercising rights under a duly appealed Variance does so at the risk that a court may reverse the permit and any construction performed under the permit may be ordered undone.

- 5. Any person aggrieved by this decision of the Zoning Board of Appeals may file an appeal pursuant to the provisions of M.G.L. Chapter 40A, section 17 within twenty (20) days of the filing of this decision in the office of the Town Clerk. If no appeal is taken within the allotted time, the Clerk will so certify.
- 6. If the applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with the provisions of this paragraph. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for approval shall apply to such modification and a public hearing shall be required by the ZBA; provided, however, that the ZBA may determine that a proposed modification is insubstantial and approve the same without the need for any further ZBA approval.

**VOTE:** (4-1-0) By the Wareham Zoning Board of Appeals.

### ZONING BOARD OF APPEALS DECISION SHEET

Petitio	n Number:	47-23			
Petitio	ner Name:	New Cingular Wire	less PCS, L	LC	
Map: 5	56				
Lot: 1	000A				
Addres	ss: 25 Brown	Street			
	t: Proposing are height of	g to extend existing 1 160'	150° commu	ınications tower b	y 10' to a new
Specia	l Permit	Variance	Both	(Circle one)	
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ASSESSORS OFFICE ASSESSORS OFFICE REQUESTED BY MICHAEL DOLAN 401 261-5128	OUR TAX ROL	SAS OF 9/13/2023			
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# ArcGIS Web Map

